

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the following commentary.

I. Status of the Claims

Claims 2 and 10 were cancelled previously. Claim 1 has been amended with support in the original specification, for example, at page 1, lines 4-6 and figures 2-4.

Because no new matter is introduced, Applicants respectfully request entry of this amendment. Upon entry, claims 1, 3-9, and 11-14 will be pending.

II. Statement of the Substance of the Interview

Applicants thank Examiner Laura Schuberg for the courtesies extended during an interview with Applicants' representative, Yang Tang, on October 17, 2008. During the interview, the participants discussed the rejection of claims 1, 3-9, and 11-14 for alleged lack of utility. In that context, Examiner Schuberg opined that this rejection would not pertain if claim 1 were revised, as above, to read "a method for inducing differentiation of supernumerary hair cells and Deiters' cells in an organ of Corti."

III. Rejection of Claims under 35 USC §101 and §112, first paragraph

Claims 1, 3-9 and 11-14 stand rejected for an alleged lack of disclosure in the specification of a credible or a well established utility. Specifically, the Examiner contends that, to this date, deafness is not treatable; hence, she questions the utility of a methodology for treating deafness, as claimed.

The Examiner's mandate for demonstrated success seems unreasonable, since that effectively requires clinical trial data for "adequate" support. The Patent Statute makes no such demand on an applicant, however. Indeed, MPEP § 2107.01, part III, quotes *Cross v. Iizuka*, 753 F.2d 1040,

1051 (Fed. Cir. 1985), for the proposition that the “stage at which an invention in this field becomes useful is well before it is ready to be administered to humans.”

Nevertheless, Applicants have chosen to advance prosecution, albeit without acquiescing to the rejection, by amending claim 1 to read “ a method for inducing differentiation of supernumerary hair cells and Deiters’ cells in an organ of Corti.” Accordingly, Applicants respectfully request withdrawal of the rejection.

CONCLUSION

Applicants submit that this application is in condition for allowance, and they request an early indication to this effect. Examiner Schuberg is invited to contact the undersigned directly, should she feel that any issue warrants further consideration.

The Commissioner is hereby authorized to charge any additional fees, which may be required under 37 CFR §§ 1.16-1.17, and to credit any overpayment to Deposit Account No. 19-0741. Should no proper payment accompany this response, then the Commissioner is authorized to charge the unpaid amount to the same deposit account. If any extension is needed for timely acceptance of submitted papers, Applicants hereby petition for such extension under 37 CFR §1.136 and authorize payment of the relevant fee(s) from the deposit account.

Respectfully submitted,

Date 24 November 2008

By 

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